

CALIFORNIA CODES  
WELFARE AND **INSTITUTIONS CODE**  
SECTION **5000**-5120

**5000.** This part shall be known and may be cited as the Lanterman-Petris-Short Act.

5001. The provisions of this part shall be construed to promote the legislative intent as follows:

(a) To end the inappropriate, indefinite, and involuntary commitment of mentally disordered persons, developmentally disabled persons, and persons impaired by chronic alcoholism, and to eliminate legal disabilities;

(b) To provide prompt evaluation and treatment of persons with serious mental disorders or impaired by chronic alcoholism;

(c) To guarantee and protect public safety;

(d) To safeguard individual rights through judicial review;

(e) To provide individualized treatment, supervision, and placement services by a conservatorship program for gravely disabled persons;

(f) To encourage the full use of all existing agencies, professional personnel and public funds to accomplish these objectives and to prevent duplication of services and unnecessary expenditures;

(g) To protect mentally disordered persons and developmentally disabled persons from criminal acts.

5002. Mentally disordered persons and persons impaired by chronic alcoholism may no longer be judicially committed.

Mentally disordered persons shall receive services pursuant to this part. Persons impaired by chronic alcoholism may receive services pursuant to this part if they elect to do so pursuant to Article 3 (commencing with Section 5225) of Chapter 2 of this part.

Epileptics may no longer be judicially committed.

This part shall not be construed to repeal or modify laws relating to the commitment of mentally disordered sex offenders, mentally retarded persons, and mentally disordered criminal offenders, except as specifically provided in Penal **Code** Section 4011.6, or as specifically provided in other statutes.

5003. Nothing in this part shall be construed in any way as limiting the right of any person to make voluntary application at any time to any public or private agency or practitioner for mental health services, either by direct application in person, or by referral from any other public or private agency or practitioner.

5004. Mentally disordered persons and developmentally disabled persons shall receive protection from criminal acts equal to that provided any other resident in this state.

5004.5. Notwithstanding any other provision of law, a legal guardian, conservator, or any other person who reasonably believes a mentally disordered or developmentally disabled person is the victim of a crime may file a report with an appropriate law enforcement agency. The report shall specify the nature of the alleged offense and any pertinent evidence. Notwithstanding any other provision of law, the information in such report shall not be deemed confidential in any manner. No person shall incur any civil or criminal liability as a result of making any report authorized by this section unless it can be shown that a false report was made and the person knew or should have known that the report was false.

Where the district attorney of the county in which the alleged offense occurred finds, based upon the evidence contained in the report and any other evidence obtained through regular investigatory procedures, that a reasonable probability exists that a crime or public offense has been committed and that the mentally disordered or developmentally disabled person is the victim, the district attorney may file a complaint verified on information and belief.

The filing of a report by a legal guardian, conservator, or any other person pursuant to this section shall not constitute evidence that a crime or public offense has been committed and shall not be considered in any manner by the trier of fact.

5005. Unless specifically stated, a person complained against in any petition or proceeding initiated by virtue of the provisions of this part shall not forfeit any legal right or suffer legal disability by reason of the provisions of this part.

5006. The provisions of this part shall not be construed to deny treatment by spiritual means through prayer in accordance with the tenets and practices of a recognized church or denomination for any person detained for evaluation or treatment who desires such treatment, or to a minor if his parent, guardian, or conservator desires such treatment.

5007. Unless otherwise indicated, the provisions of this part shall not be construed to apply retroactively to terminate court commitments of mentally ill persons or inebriates under preexisting law.

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing evaluation services or may be part-time employees or may be employed on a contractual basis.

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2.

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in this part shall be construed to prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation.

(d) "Referral" is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services which prevent initial recourse to hospital treatment or aftercare services which support adjustment to community living following hospital treatment. These services may be provided through county welfare departments, State Department of Mental Health, Short-Doyle programs or other local agencies.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. These files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals.

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services.

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of

all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of mental disorder, to be a danger to others, or to himself or herself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part.

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350).

(h) (1) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4 (commencing with Section 5250) of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means either of the following:

(A) A condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(B) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal **Code** and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him or her and to assist counsel in the conduct of his or her defense in a rational manner.

(2) For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(3) The term "gravely disabled" does not include mentally retarded persons by reason of being mentally retarded alone.

(i) "Peace officer" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal **Code** who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal **Code** when acting in relation to cases for which he or she has a legally mandated responsibility.

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2.

(k) "Court," unless otherwise specified, means a court of record.

(l) "Antipsychotic medication" means any medication customarily prescribed for the treatment of symptoms of psychoses and other severe mental and emotional disorders.

(m) "Emergency" means a situation in which action to impose treatment over the person's objection is immediately necessary for the preservation of life or the prevention of serious bodily harm to the patient or others, and it is impracticable to first gain consent.

It is not necessary for harm to take place or become unavoidable prior to treatment.

5008.1. As used in this division and in Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 6 (commencing with Section 6000), Division 7 (commencing with Section 7100), and Division 8 (commencing with Section 8000), the term "judicially committed" means all of the following:

(a) Persons who are mentally disordered sex offenders placed in a state hospital or institutional unit for observation or committed to the State Department of Mental Health pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6.

(b) Developmentally disabled persons who are admitted to a state hospital upon application or who are committed to the State Department of Developmental Services by court order pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6.

(c) Persons committed to the State Department of Mental Health or a state hospital pursuant to the Penal **Code**.

5008.2. (a) When applying the definition of mental disorder for the purposes of Articles 2 (commencing with Section 5200), 4 (commencing with Section 5250), and 5 (commencing with Section 5275) of Chapter 2 and Chapter 3 (commencing with Section 5350), the historical course of the person's mental disorder, as determined by available relevant information about the course of the person's mental disorder, shall be considered when it has a direct bearing on the determination of whether the person is a danger to others, or to himself or herself, or is gravely disabled, as a result of a mental disorder. The historical course shall include, but is not limited to, evidence presented by persons who have provided, or are providing, mental health or related support services to the patient, the patient's medical records as presented to the court, including psychiatric records, or evidence voluntarily presented by family members, the patient, or any other person designated by the patient. Facilities shall make every reasonable effort to make information provided by the patient's family available to the court. The hearing officer, court, or jury shall exclude from consideration evidence it determines to be irrelevant because of remoteness of time or dissimilarity of circumstances.

(b) This section shall not be applied to limit the application of Section 5328 or to limit existing rights of a patient to respond to evidence presented to the court.

5009. Persons receiving evaluation or treatment under this part shall be given a choice of physician or other professional person providing such services, in accordance with the policies of each agency providing services, and within the limits of available staff in the agency.

5010. The agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as that term is defined by Section 102(7) of the federal act, shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from or on behalf of the person and the person consents to the disclosure of the records to the extent of his or her capabilities.

(2) The person does not have a parent, guardian or conservator, or the state or the designee of the state is the person's guardian or conservator.

5012. The fact that a person has been taken into custody under this part may not be used in the determination of that person's eligibility for payment or reimbursement for mental health or other health care services for which he or she has applied or received under the Medi-Cal program, any health care service plan licensed under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety **Code**), or any insurer providing health coverage doing business in the state.

5020.1. A mentally ill minor, between the ages of 3 and 18, upon being considered for release from a state hospital shall have an aftercare plan developed. Such plan shall include educational or training needs, provided these are necessary for the patient's well-being.

5110. Whenever a proceeding is held in a superior court under Article 5 (commencing with Section 5275) or Article 6 (commencing with Section 5300) of this chapter or Chapter 3 (commencing with Section 5350) of this part involving a person who has been placed in a facility located outside the county of residence of the person, the provisions of this section shall apply. The appropriate financial officer or other designated official of the county in which the proceeding is held shall make out a statement of all of the costs incurred by the county for the investigation, preparation, and conduct of the proceedings, and the costs of appeal, if any. The statement shall be certified by a judge of the superior court of the county. The statement shall then be sent to the county of residence of the person, which shall reimburse the county providing the services. If it is not possible to determine the actual county of residence of the person, the statement shall be sent to the county in which the person was originally detained, which shall reimburse the county providing the services.

5111. Any county without a public defender is authorized to compensate the attorneys appointed for persons entitled to be represented by counsel in proceedings under this part.

5113. Except as provided in Sections 5154, 5173, 5259.3, 5267, and 5306, the facility providing treatment pursuant to Article 1 (commencing with Section 5150), Article 1.5 (commencing with Section 5170), Article 4 (commencing with Section 5250), Article 4.5 (commencing with Section 5260) or Article 6 (commencing with Section 5300), the superintendent of the facility, the professional person in charge of the facility and his or her designee, or the peace officer responsible for the detainment of the person shall not be civilly or criminally liable for any action by a person released at or before the end of the period for which he or she was admitted pursuant to the provisions of the appropriate article.

5114. At any judicial proceeding under the provisions of this division, allegations that the person is a danger to others, or to himself, or gravely disabled as a result of mental disorder or impairment by chronic alcoholism, shall be presented by the district attorney for the county, unless the board of supervisors, by ordinance or resolution, delegates such duty to the county counsel.

5115. The Legislature hereby finds and declares:

(a) It is the policy of this state, as declared and established in this section and in the Lanterman Developmental Disabilities Services Act, Division 4.5 (commencing with Section 4500), that mentally and physically handicapped persons are entitled to live in normal residential surroundings and should not be excluded therefrom because of their disability.

(b) In order to achieve uniform statewide implementation of the policies of this section and those of the Lanterman Developmental Disabilities Services Act, it is necessary to establish the statewide policy that the use of property for the care of six or fewer mentally disordered or otherwise handicapped persons is a residential use of such property for the purposes of zoning.

5116. Pursuant to the policy stated in Section 5115, a state-authorized, certified, or licensed family care home, foster home, or group home serving six or fewer mentally disordered or otherwise handicapped persons or dependent and neglected children, shall be considered a residential use of property for the purposes of zoning if such homes provide care on a 24-hour-a-day basis.

Such homes shall be a permitted use in all residential zones, including, but not limited to, residential zones for single-family dwellings.

5117. In order to further facilitate achieving the purposes of this

act and the Lanterman Mental Retardation Act of 1969, it is desirable that there be a consolidation of the facilities standard setting, licensure and ratesetting functions of the various state departments under the jurisdiction of the Health and Welfare Agency.

5118. For the purpose of conducting hearings under this part, the court in and for the county where the petition is filed may be convened at any time and place within or outside the county suitable to the mental and physical health of the patient, and receive evidence both oral and written, and render decisions, except that the time and place for hearing shall not be different from the time and place for the trial of civil actions for such court if any party to the proceeding, prior to the hearing, objects to the different time or place.

Hearings conducted at any state hospital or any mental health facility designated by any county as a treatment facility under this part or any facility referred to in Section 5358 or Division 7 (commencing with Section 7100), within or outside the county, shall be deemed to be hearings held in a place for the trial of civil actions and in a regular courtroom of the court.

Notwithstanding any other provisions of this section, any party to the proceeding may demand that the hearing be public, and be held in a place suitable for attendance by the public.

Notwithstanding any other provisions of law, any hearing under this part which was held before enactment of this section but which would have been in accordance with this section had it been effective is deemed to be valid for all purposes.

As used in this section, a "hearing under this part" includes conservatorship and other hearings held pursuant to Chapter 3 (commencing with Section 5350) of this part.

5119. On and after July 1, 1972, when a person who is an employee of the State Department of Mental Health at the time of employment by a county in a county mental health program or on and after July 1, 1972, when a person has been an employee of the State Department of Mental Health within the 12-month period prior to his employment by a county in a county mental health program, the board of supervisors may, to the extent feasible, allow such person to retain as a county employee, those employee benefits to which he was entitled or had accumulated as an employee of the State Department of Mental Health or provide such employee with comparable benefits provided for other county employees whose service as county employees is equal to the state service of the former employee of the State Department of Mental Health. Such benefits include, but are not limited to, retirement benefits, seniority rights under civil service, accumulated vacation and sick leave.

The county may on and after July 1, 1972, establish retraining programs for the State Department of Mental Health employees transferring to county mental health programs provided such programs are financed entirely with state and federal funds made available for that purpose.



For the purpose of this section "employee of the Department of Mental Health" means an employee of such department who performs functions which, prior to July 1, 1973, were vested in the Department of Mental Hygiene.

5120. It is the policy of this state as declared and established in this act and in the Lanterman-Petris-Short Act that the care and treatment of mental patients be provided in the local community. In order to achieve uniform statewide implementation of the policies of this act, it is necessary to establish the statewide policy that, notwithstanding any other provision of law, no city or county shall discriminate in the enactment, enforcement, or administration of any zoning laws, ordinances, or rules and regulations between the use of property for the treatment of general hospital or nursing home patients and the use of property for the psychiatric care and treatment of patients, both inpatient and outpatient.

Health facilities for inpatient and outpatient psychiatric care and treatment shall be permitted in any area zoned for hospitals or nursing homes, or in which hospitals and nursing homes are permitted by conditional use permit.